

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

No. 17-71353

INTERNATIONAL UNION OF PAINTERS
AND ALLIED TRADES, DISTRICT
COUNCIL 15, LOCAL 159, AFL-CIO,

Case No. 362 N.L.R.B. No. 190
28-CA-060941

Intervenor,

v.

CAESARS ENTERTAINMENT, DBA Rio
All-Suites Hotel and Casino,

Respondent.

INTERNATIONAL UNION OF PAINTERS
AND ALLIED TRADES, DISTRICT
COUNCIL 15, LOCAL 159, AFL-CIO,

No. 17-71353

Petitioner,

Case No. 362 N.L.R.B. No. 190
28-CA-060941

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

MOTION TO STAY BRIEFING SCHEDULE

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ALLIED TRADES, DISTRICT COUNCIL 15, LOCAL 159, AFL-CIO**

1. These cases, which have been consolidated, involve a Petition for Enforcement by the National Labor Relations Board of its Decision and Order in Caesars Entertainment d/b/a Rio All-Suites Hotel and Casino, 362 N.L.R.B. No. 190 (2015) in Case No. 17-71353 and a Petition for Review filed by the Charging Party Union in Case No. 17-71379. The Charging Party is also the Intervenor in Case 17-71353.

2. The Opening Brief of Caesars Entertainment in Case No. 17-71353 was filed on January 2, 2018.

3. The Brief of Petitioner Union, which is also the Intervenor, in Case No. 17-71353, is now due March 9, 2018.

4. After the Respondent Employer filed its Opening Brief, the National Labor Relations Board filed a “Motion of the National Labor Relations Board for Partial Remand and Partial Summary Enforcement” on February 9, 2018. The Motion, in part, seeks summary enforcement of one portion of the Board’s Order. As to the remaining portion of the Board’s Order, the Board seeks a remand based upon a claimed change in intervening Board law, as reflected in a case issued on December 14, 2017, *Boeing Co.*, 365 N.L.R.B. No. 154.

5. The parties have responded to the Board’s motion. The last Reply by the National Labor Relations Board was filed in this Court on February 27, 2018.

6. This Court has not ruled on the Board’s Motion. The Board’s Motion, if fully granted, although opposed by the Union, will dispose of this entire case before this Court. If the Court grants the motion it will moot the Petition for Review which the Union has filed.

7. Because the Board’s Motion is a dispositive motion before this Court, the Union requests that this Court stay the briefing scheduling, pending resolution of that motion. The Union cannot brief the case until this Court’s Order determines the scope of the Board’s Order which remains before the Court or is remanded to

the Board. The Union cannot address those rules which the Board did not find unlawful until it knows the scope of any remand order.

8. This motion is based upon Circuit Rule 27-11(a)(1) and (b).

Here, because of the dispositive motion filed by the National Labor Relations Board, it is possible, depending upon this Court's ruling on that motion, that there will be no further briefing in these cases.

9. Counsel for the National Labor Relations Board, Eric Weitz, has indicated that the Board has no opposition to this motion. Counsel for the Employer has indicated that they cannot agree to the request but have stated they have not made a determination as whether to oppose it or not.

10. For the reasons suggested above, Intervenor in Case No. 17-71353 and Petitioner in Case No. 17-73379 requests this Court stay the briefing schedule pending resolution of the dispositive motion filed by the National Labor Relations Board.

Dated: March 2, 2018

Respectfully Submitted

By: /s/ David A. Rosenfeld
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Intervenor, INTERNATIONAL UNION
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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rules of Appellate Procedure 32(g)(1), Proposed Intervenor certifies that Intervenor's **MOTION TO STAY BRIEFING SCHEDULE** contains 475 words of proportionately-spaced, 14 point type, and that the word processing system used was Microsoft Word 2010.

Dated: March 2, 2018

Respectfully Submitted

By: /s/ David A. Rosenfeld
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Intervenor, INTERNATIONAL UNION
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DISTRICT COUNCIL 15, LOCAL 159,
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CERTIFICATE OF SERVICE

I am a citizen of the United States and an employee in the County of Alameda, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501.

I hereby certify that on March 2, 2018, I electronically filed the foregoing **MOTION TO STAY BRIEFING SCHEDULE** with the United States Court of Appeals, Ninth Circuit, by using the Court's CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Notice of Electronic Filing by the Court's CM/ECF system.

I certify under penalty of perjury that the above is true and correct.
Executed at Alameda, California, on March 2, 2018.

/s/ Karen Kempler
Karen Kempler